



DEPARTMENT OF THE INTERIOR

Office of the Secretary

Land Buy-Back Program for Tribal Nations under *Cobell* Settlement.

AGENCY: Office of the Deputy Secretary, Interior

ACTION: Notice.

SUMMARY: The Land Buy-Back Program (Program) for Tribal Nations will host a listening session on March 19, 2015, in Laveen, Arizona. The Program hopes to receive feedback from tribes and individuals on critical issues related to the Program as well as the 2014 Status Report: <http://www.doi.gov/news/upload/Buy-BackProgramStatusReport-11-20-14-v4.pdf>.

DATES: The listening session will take place on March 19, 2015, at the Vee Quiva Hotel, 15091 South Komatke Lane, Laveen, Arizona 85339. Written comments are also encouraged and must be received by April 20, 2015, and may be emailed to buybackprogram@ios.doi.gov.

FOR FURTHER INFORMATION CONTACT & RSVP: Please RSVP and direct questions to Ms. Treci Johnson at treci_johnson@ios.doi.gov or (202) 208-6916.

SUPPLEMENTARY INFORMATION:

I. Background

The Land Buy-Back Program for Tribal Nations is the Department of the Interior's (Department) collaborative effort with Indian Country to realize the historic opportunity afforded by the *Cobell* Settlement's \$1.9 billion Trust Land Consolidation Fund (Consolidation Fund). The purpose of the Consolidation Fund is to compensate individuals who willingly choose to transfer fractional land interests to tribal nations for fair market value. The Program continues to actively engage tribes and individuals across Indian Country, as it has in consultations since 2011.

The Department is currently implementing the Buy-Back Program at multiple locations across Indian Country. Thus far, the Program has made more than \$780 million in offers to individual landowners and paid nearly \$350 million directly to more than 20,000 individuals that decided to sell fractional interests. This has restored the equivalent of more than 541,000 acres to tribes. Our working relationships with tribes (17 cooperative agreements or other arrangements to date) and continued outreach to landowners are important elements of continued progress.

II. Listening Session

The purpose of the upcoming listening session is to gather input from tribes in order for the Department to continue to refine its land consolidation processes and engage individual landowners who may have questions about the Program. The listening session will begin at 1 p.m. with opening remarks from Deputy Secretary Michael L. Connor and other senior Departmental officials and will continue until 4p.m. Tribal leaders and individual landowners will have an opportunity to present comments.

III. Seeking Tribal Input

The Buy-Back Program is committed to continuous consultations throughout the life of the Program in compliance with the letter and spirit of Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments) and Secretarial Order 3314 (Department of the Interior Policy on Consultation with Indian Tribes).

At the beginning of 2013, Department officials conducted extensive tribal consultations on the following:

- 1) Developing an efficient, fair process for landowners of fractionated interests to participate in the Buy-Back Program;

- 2) Identifying and maximizing opportunities for tribal involvement; and
- 3) Offering tribes flexibility to execute Program requirements in the manner best suited for the unique needs of each community.

Tribal input has been critical to making necessary enhancements to the Buy-Back Program.

We are committed to learning from every sale at every location and making adjustments where necessary that are transparent and fair. For example, among adjustments influenced by tribal input, the Bureau of Indian Affairs (<https://www.federalregister.gov/articles/2014/11/14/2014-27033/privacy-act-of-1974-as-amended-notice-to-amend-an-existing-system-of-records>) and Office of the Special Trustee for American Indians (<https://www.federalregister.gov/articles/2015/01/08/2015-00038/privacy-act-of-1974-as-amended-notice-to-amend-an-existing-system-of-records>) announced this past year that the agencies were updating their existing system of record notices (SORNs).

The updated SORNs will make it easier to exchange information with tribal governments as they work to help implement land consolidation activities in cooperation with the program. These updates respond to comments during government-to-government consultations, presentations, and the Program's 2014 Listening Session, in which tribal representatives have expressed a need for greater and simpler access to landowner information to effectively conduct outreach and land consolidation activities for the Program.

While the Department welcomes feedback related to any aspect of the Program, the following areas are of particular interest:

Ideas for Improvement. The active participation of individual Indians, tribal leaders, and other interested parties is critical to success of the Program. The

Department seeks comments on any ideas that will facilitate continued improvement of the Program.

1. **Implementation at Less-Fractionated Locations.** While the implementation strategy keeps the Program focused on the most highly fractionated locations for the next few years, the Program has involved “less-fractionated locations” as well. There are about 110 less fractionated locations that contain approximately 10 percent of the outstanding fractional interests. The Program continues to explore ways for additional less fractionated locations to participate in buy-back efforts.

The Program seeks comment on the most efficient and cost effective way to work with less-fractionated locations, including comment on specific steps the Program can take to facilitate earlier purchases at less fractionated locations.

2. **Outreach.** Participation in the Buy-Back Program is voluntary. It is unclear how many of the approximately 245,000 individual owners will choose to sell their interests for conveyance to the Tribe. Currently, approximately 42% of Program offers to landowners are accepted on average.

The Program utilizes various outreach tools, including a comprehensive website to provide landowners, tribes, and the public with information about the Program. The site contains a detailed list of frequently asked questions, outreach materials, instructions for completing the deed, cooperative agreement guidance and instructional documents, and Program presentations, among other items.

The Program seeks comment on what, if any, additional information on the Program's website would be helpful in assisting individual landowners to reach informed decisions about the disposition of their fractional interests.

The Program also seeks comments on what additional steps can be taken to ensure landowners have sufficient information and answers to their questions.

3. **Public Domain or "Off-Reservation" Lands.** Under the Settlement, fractional interests acquired by the Program are to be immediately held in trust or restricted status for the recognized tribe that exercises jurisdiction over the land. When identifying the locations with fractional interests that may be consolidated, the Program excludes land area names that include the term "public domain" or "off reservation" because use of these terms indicate that there may be no recognized tribe that exercises jurisdiction over the land. The Program has encouraged feedback, however, on the list of locations in its 2012 and 2013 implementation plans. Since then, the Program has received feedback from several tribes suggesting that certain land areas should be included.

The Program is now seeking general feedback on whether the Program should incorporate public domain or off reservation land areas into the Program, and if so, what criteria should be applied.

4. **Purchase Estimates.** Consultations between Departmental, Program, and tribal leaders led to the policy decision to express purchase ceiling amounts within the Initial Implementation Plan (2012 Plan) and Updated Implementation Plan (2013 Plan). The underlying concept behind such purchase estimates is to approximate

the potential portion of the Consolidation Fund available to pay owners who choose to sell fractional interests at a given location, based on a formula that considers a location's proportional share of fractionation across Indian Country.

The Program's November 2014 Status Report expounds on the purchase estimate approach. Among other things, it noted that the Program was implementing several steps to "make sure the Consolidation Fund is used before November 2022," including the creation of opportunities for willing sellers, leveraging efficient mass appraisal results, making a single wave of offers, and continually learning from experience and data. Moreover, the Status Report described a number of factors the Program will consider to determine how to best expend funds, such as:

- a. level of interested or documented willing sellers;
- b. availability of valuation related-information;
- c. tribal readiness or interest;
- d. severity of fractionation;
- e. cost and time efficiency;
- f. promotion of tribal sovereignty and self-determination;
- g. economic and/or cultural value for the community, as evidenced by well-articulated tribal priorities; and
- h. loss of historical reservation land as a result of allotment.

Such steps are intended to help the Program address instances where sales fall below estimates to ensure full use of the Consolidation Fund by November 2022.

The Program seeks comment on these steps, including the most equitable, efficient, and cost effective way to utilize/repurpose purchase estimate amounts remaining following active implementation at each individual location.

5. **Purchase Offer Package.** The Program strives to make the offer package documents as clear and user friendly as possible. Following the initial purchase offers to landowners, the Bureau of Indian Affairs (BIA) made several changes to the Deed paperwork to reduce common errors by landowners and notaries and increase processing speed. The Program also clarified the Cover Letter and Instructions to address frequent questions and recurring errors.

The Program seeks comment on what, if any, additional changes would assist in making offer package documents as clear and user friendly as possible.

6. **Reimbursement for Post-Settlement Purchases of Fractional Interests.** The Buy-Back Program has received inquiries regarding, and requests from tribes for, reimbursement from the Land Consolidation Fund for tribal purchases of fractional interests.

The Program seeks comment on what criteria it should apply in making reimbursement decisions.

7. **Structural Improvements.** While the Program will not acquire structural improvements, which are non-trust property, the Program continues to work

with its tribal and Federal partners to determine the feasibility of making offers on tracts with structures.

The Program seeks comment on a recommended policy regarding acquiring interests in tracts with structural improvements, including instances in which the Program might choose to acquire interests.

8. **Whereabouts Unknown.** Whereabouts unknown (WAU) is the term used to describe Individual Indian Money (IIM) account holders without current address information on file with the Office of the Special Trustee for American Indians (OST). The Settlement provides for an outreach effort to locate landowners whose whereabouts are unknown as of the date of final approval of the Settlement. If those owners are not located after the Department undertakes the outreach effort and the passage of five years, the landowners shall be deemed to have consented to the conveyance of their fractional interest [Cobell Settlement Agreement at F (6); Claims Resolution Act of 2010 101(e) (5)]. Since the Program's inception, the focus has been locating WAU through outreach efforts so the individuals can receive and consider an offer.

The Program has not exercised WAU purchases thus far and is seeking input from tribes and individuals on whether and how it should implement the provision.

IV. Additional Resources

The Land Buy-Back Program for Tribal Nations 2014 Status Report and additional information about the Buy-Back Program is available at: <http://www.doi.gov/buybackprogram>.

In addition, landowners can contact their local Fiduciary Trust Officer or call Interior's Trust Beneficiary Call Center at (888) 678-6836.

Dated: February 23, 2015.

Michael L. Connor,
Deputy Secretary.

[FR Doc. 2015-04304 Filed 03/02/2015 at 8:45 am; Publication Date: 03/03/2015]